

**Applicant:** Dave Staehlin

**Agent:** NA

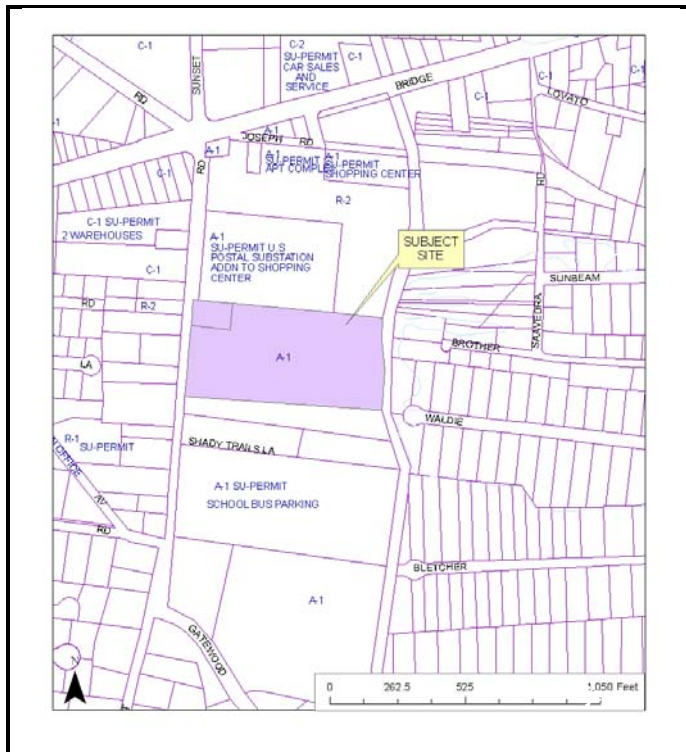
**Location:** 1054 and 1058 Sunset Rd. SW

**Property Size:** Approximately 5.5 acres

**Existing Zone:** A-1

**Proposed Request:** R-2

**Recommendation:** Denial



**Summary:** The applicant is requesting approval of a zone map amendment from A-1 to R-2 for two adjacent lots located in the South Valley of Bernalillo County. The site is located in the Semi Urban Area of the Albuquerque/Bernalillo County Comprehensive Plan and Residential Area 3 of the Southwest Area Plan.

Upon request of the applicant, this case was deferred from the December 5, 2007 hearing to allow the applicant time to meet with concerned neighbors.

**Staff Planner:** Mari Simbaña, Program Planner

- Attachments:**
1. Application
  2. Land Use and Zoning Map
  3. Letters of Opposition (Received by Nov. 20, 2007)
  4. Additional Letters of Opposition (Received after Nov. 20, 2007)
  5. Applicant's Letter of Request for Deferral

Bernalillo County Departments and other interested agencies reviewed this application from October 23 2007 to November 7, 2007.  
Agency comments were used verbatim in preparation of this report, and begin on page 11.

**AGENDA ITEM NO.: 8**  
**County Planning Commission**  
**March 5, 2008**

CZ-70023      Dave Staehlin requests approval of a zone map amendment from A-1 to R-2 on Tracts 263A & 263B, MRGCD Map 41, located at 1058 Sunset Road SW, on the east side of Sunset Road approximately 750 feet south of Bridge Boulevard, and containing approximately 5.5 acres. (L-13) (DEFERRED FROM THE DECEMBER 5, 2007 HEARING)

**AREA CHARACTERISTICS AND ZONING HISTORY**  
**Surrounding Zoning & Land Uses**

<b>Site</b>	<b>Zoning</b>	<b>Land Use</b>
	A-1	Vacant
<b>North</b>	A-1	Special Use Permit Postal Substation Addition To Shopping Center
	R-2	Multi-Family Apartments
<b>South</b>	A-1	Single Family Dwelling
<b>East</b>	R-1	Single Family Dwelling
<b>West</b>	Right-of-Way	Sunset Rd.
	R-1	Single Family Dwelling

**BACKGROUND:**

**The Request**

The applicant is requesting approval of a zone map amendment from A-1 to R-2 for a property (two lots) located at 1054 and 1058 Sunset Rd. The property contains two single family dwellings and three accessory structures. The majority of the approximately 5.5 acre property is vacant.

Request Justification

The applicant expresses that the request is compatible with the goals of the Developing and Established Urban Area of the Albuquerque/Bernalillo County Comprehensive Plan

The applicant justifies the request as consistent with Resolution 116-86 in that the changed community conditions have resulted in a mix of uses and furthermore that, "The location of the property near these land uses demonstrate that the existing land use is not appropriate for single-family residential living." The applicant also believes that the zone change is more advantageous to the community because it will provide infill development meeting a need for a variety of housing in the area.

**Surrounding Land Use and Zoning**

The subject site is located within close proximity to the intersection of Sunset Rd., Five Points Rd., and Bridge Blvd., described in the Southwest Area Plan as the Five Points Village. The subject site is surrounded by single-family homes to the west, east, and south and by a mix of uses to the north. Immediately north is a lot zoned A-1 with a special use permit for the Post Office (CSU-87-24). Also immediately north are the Villa Alegra apartments on a lot zoned R-2 (CZ-95-1). Across (northwest corner) Sunset Rd. there are four small lots zoned R-2 (CZ-75-6) and containing a small apartment complex. Further south of the subject site, is Armijo Elementary School.

**APPLICABLE PLANS AND POLICIES:**

**Albuquerque/Bernalillo County Comprehensive Plan**

The site is within the Semi Urban Area as designated in the Comprehensive Plan. The goal in the Comprehensive Plan is to "maintain the character and identify of semi urban areas, which have environmental, social or cultural conditions limiting urban land uses."

Semi-Urban Area:

**Policy a** states that "development in the semi-urban area "shall be consistent with development limitations imposed by topography, soil conditions, groundwater quality, agricultural potential, flood potential, scenic qualities, recreation potential and existing development; the overall gross density shall be up to three dwelling units per acre."

**Policy b** states "development in semi-urban areas shall include trail corridors, where appropriate, and shall be compatible with economic policies and historical and socio-cultural values, and shall maintain and integrate existing and new buildings and spaces of local significance into the community."

**Policy c** states that

- “Mixed use areas should protect residential uses in the area, while offering a variety of local employment opportunities.”

**Southwest Area Plan (SWAP)**

**Policy 14** states, “protect the fragile landforms and air quality in the plan area, new development or major modifications roads and other public facilities shall adapt to existing natural environment, topography, soils, vegetation, geology, and hydrology.

**(f)** Prohibit excessive cuts and fills that scar the natural landscape and create unstable soil and erosion conditions.

**Policy 23** states “all development and subdivisions shall be required to limit the level of water runoff generated from new construction or paving in order to reduce velocity and volume of runoff, and to ensure the viability and capacity of down stream facilities.”

**Policy 30 (f)** allows up to three dwelling units per acre in Residential Area 3 when City sewer is available, or a maximum of one dwelling unit per net acre when using individual liquid waste disposal systems.

**Policy 34** states, “standards for outdoor lighting shall be implemented to ensure that their use does not interfere with the night sky environment and unnecessarily adjacent properties.”

**(a)** Outdoor light poles within residential areas should not exceed sixteen (16) feet in height above existing grade; when mounted on buildings or structures, fixtures should not exceed twelve (12) feet from existing grade.

**Bernalillo County Zoning Ordinance**

**Section 10. R-2 Apartment Zone.**

A. The regulations set forth in this section or set forth elsewhere in this ordinance, when referred to in this section, are the regulations in the R-2 Apartment Zone. The purpose of this zone is to permit in appropriate areas a higher density of population than in one-family zones and still maintain a residential environment.

B. Use Regulations. A building or premises shall be used only for the following purposes, all uses customarily incidental to the building or premises shall be maintained on site:

1. Prohibited Uses. The following uses are prohibited in this zone:

- a. The open storage of inoperative vehicles or auto parts;
- b. The open storage of trash or junk;
- c. The open storage of large appliances;
- d. Any use not designated a permissive use or conditional use in this zone, unless otherwise authorized by this Code; or
- e. Any use not recognized as customarily incidental to a permitted use in the zone.

2. Permissive Uses:

- a. Any Permissive Use permitted in the R-1 Residential Zone.
  - b. Apartments.
  - c. Multiple single family dwellings.
  - d. Townhouses.
3. Conditional Uses. The following uses may be permitted if approved by the Zoning Administrator, in accordance with the procedures and under the conditions set out in the Administrative Section of this ordinance with additional requirements deemed necessary to safeguard the best interest of the adjoining property, neighborhood, and the community.
- a. Any Conditional Use permitted in the R-1 Residential Zone.
  - b. Fraternity or sorority house.
  - c. Boardinghouse.
- C. Height Regulations. Structures may exceed 26 feet in height, but any portion of a structure which exceeds 26 feet in height may not exceed a plane drawn at a 45 degree angle from the horizontal from the ground level of land zoned A-1, A-2, R-1, or M-H, which is unimproved or is improved with a conforming Permissive Use.
- D. Area Regulations:
1. Minimum Lot Area and Lot Width. For developments of other than townhouses the minimum lot area shall be 8,000 square feet and the minimum lot width shall be 60 feet, provided community water and sewer facilities are made available. For townhouses, the minimum lot area shall be 4,000 square feet and the minimum lot width shall be 24 feet, provided community water and sewer facilities are available. If community utilities are not available, then the minimum lot size shall be three-quarters [of an] acre per dwelling unit.
  2. Front Yard:
    - (a) There shall be a front yard having a depth of not less than 20 feet, except as provided in the supplementary height and area regulations section of this ordinance, or for townhouses, which shall have a minimum front yard depth of ten feet, provided that the length of any driveway shall not be less than 20 feet.
    - (b) Where lots have double frontage, the required front yard shall be provided on both streets.
  3. Side Yard:
    - (a) Except as hereinafter provided in the following paragraphs and in the supplementary height and area regulation section of this ordinance, there shall be a side yard on both sides of a building the aggregate width of which shall be not less than 14 feet; provided, however, that neither side yard shall be less than six feet in width.
    - (b) Wherever a lot of record, at the effective date of this ordinance, has a width of less than 60 feet, each side yard may be reduced to a width of not less than ten percent of the width of the lot, but in no instance shall it be less than three feet.
    - (c) There is no required side-yard setback from internal lot lines for townhouses; there shall be a five-foot setback from external lot lines of corner townhouse lots.
  4. Rear Yard. Except as hereinafter provided in the supplementary height and area regulations section of this ordinance, there shall be a rear yard having a depth of not less than 15 feet.
  5. Density. Every building hereafter erected or structurally altered for dwelling purposes shall comply with the following density requirements:
    - a. A floor area ratio of 0.5 is permitted provided community water and sewer facilities are made available.

b. If community utilities are not available, then the minimum lot area shall be three-quarters [of an] acre per dwelling unit.

E. Parking Requirements. Off-street parking for all uses must be provided in accordance with the regulations set forth in the Off-street Parking, Loading and Unloading Section of this ordinance.

F. Usable Open Space:

1. Usable open space shall be provided on-site in an amount equal to 200 square feet for each efficiency or one bedroom dwelling unit, 250 square feet for each two bedroom dwelling unit, and 300 square feet for each dwelling unit containing three or more bedrooms.

2. Where an aggregate of two or more dwelling units is constructed on any given lot, the development shall plant and maintain according to the Landscaping and Buffer Landscaping Section of this ordinance.

(Ord. No. 92-18, 12-15-92; Ord. No. 04-1, § 1, 1-13-04; Ord. No. 2006-22, § 1, 9-26-06)

**Resolution 116-86** defines criteria for evaluating a Zone Map changes and Special Use Permit applications.

The following policies for deciding zone map changes and Special Use Permit applications pursuant to the adopted Bernalillo County Zoning Ordinance.

- A. A proposed land use change must be found to be consistent with the health, safety and general welfare of the residents of the County.
- B. The cost of land or other economic considerations pertaining to the applicant shall not be the determining factor for a land use change.
- C. A proposed land use change shall not be in significant conflict with adopted elements of the Comprehensive Plan or other Master Plans and amendments thereto including privately developed area plans which have been adopted by the Board of County Commissioners.
- D. Stability of the land use and zoning is desirable; therefore, the applicant must provide a sound justification for land use change. The burden is on the applicant to show why the change should be made.
- E. The applicant must demonstrate that the existing zoning is inappropriate because:
  - 1. An error in the original zone map.
  - 2. Changed neighborhood conditions, which justifies a change in land use or
  - 3. That a different use category is more advantageous to the community as articulated in the Comprehensive Plan or other land use plans as adopted by the Board of County Commissioners.
- F. A land use change shall not be approved where some of the permissive uses in the land use change would be harmful to adjacent property, the neighborhood or the community.
- G. Location on a collector or major street is not itself sufficient justification of apartment, office, or commercial zoning.

- H. A zone change request which would give a zone different from the surrounding zoning to one small area, especially when only one premises is involved, is generally called a "spot zone." Such a change of zone may be approved only when:
1. The change will clearly facilitate revitalization of the Comprehensive Plan and any applicable adopted sector development plan or area development plan; or
  2. The area of the proposed zone change is different from surrounding land because it could function as a transition between adjacent zones, because the site is not suitable for the uses allowed in any adjacent zone due to topography, traffic, or special adverse land uses nearby; or because the nature of structures already on the premises makes the site unsuitable for the uses allowed in any adjacent zone.
- I. A zone change request, which would give a zone different from the surrounding zoning to a strip of land along a street, is generally called a "strip zoning." Such a change of zone may be approved only when:
1. The change will clearly facilitate realization of the Comprehensive Plan and any applicable adopted sector development plan or area development plan; or
  2. The area of the proposed zone change is different from surrounding land because it could function as a transition between adjacent zones, because the site is not suitable for the uses allowed in any adjacent zone due to topography, traffic, or special adverse land uses nearby; or because the nature of structures already on the premises makes the site unsuitable for the uses allowed in any adjacent zone.

## **ANALYSIS:**

### **Surrounding Land Use and Zoning**

Although there are several commercially-zoned properties at the Five Points intersection and a school bus parking lot south of the subject site, it is primarily surrounded by single-family dwellings on A-1 and R-1 zoned lots. The Post Office and Villa Alegre apartments already act as a transition from commercial activity at Five Points Village to residential land use to the south.

### **Plans**

#### Albuquerque/Bernalillo County Comprehensive Plan

The applicant incorrectly cites the subject property as being within the Developing and Established Urban Area of the Albuquerque/Bernalillo County Comprehensive Plan. In fact, it is within the Semi-Urban Area and that policy (a) recommends that development be consistent with the existing context and development constraints imposed by the physical limitations of the surrounding area. These limitations include topography, soil conditions, groundwater quality, and agricultural potential, flood potential and an overall gross density of up to three dwelling units per acre. The density created by multi-family dwellings has the potential to conflict with this policy.

Southwest Area Plan (SWAP)

The requested zone could allow uses that conflict with the SWAP. Policy 30 of the Southwest Area Plan allows up to three dwelling units per net acre in Residential Area 3 when City sewer is available to the subject site. Policy 46 recommends a balance between economic development and the quality of life for existing communities as well as for newly developed areas.

**Zoning Ordinance**

Resolution 116-86 states the criteria for evaluating a requested zone change or Special Use Permit. The applicant must demonstrate that the existing zoning is inappropriate because of 1) an error in the original zone map; 2) changed neighborhood conditions which justifies a change in land use; or 3) that a different use category is more advantageous to the community as articulated in a County adopted plan. The higher density allowed in the R-2 zoning appears to conflict with the Albuquerque/Bernalillo County Comprehensive Plan and the SWAP. The surrounding properties have predominantly accommodated single-family dwellings and continue to do so, therefore, there are no changed community conditions.

**Agency Comments**

No adverse comments were received from any reviewing agency. Albuquerque Public Schools (APS) staff comments that the increase number of school-age children has the potential to impact the capacity of the Albuquerque School system facilities that serve this area. All pertinent regulations must be met upon development of the site.

**Analysis Summary**

Zoning	
Resolution 116-86	This request is inconsistent with Resolution 116-86 in that the applicant has not demonstrated that the existing zoning is inappropriate. There has been not change in the neighborhood conditions and the use could conflict with existing plans.
Plans	
Comprehensive Plan	The Goal of the Semi-Urban Area is to maintain the character and identify of semi urban areas, which have environmental, social or cultural conditions limiting urban land uses.
South West Area Plan	Policy 30 of the Southwest Area Plan allows up to three dwelling units per net acre in Residential Area 3 when City sewer is available to the subject site.
Other Requirements	
APS	An increased number of students attending the school facilities serving the area will likely result in overcrowding.
Environmental Health	Provide a water and sewer availability statement for the specific R-2 uses
Public Works	Additional right-of-way may be required upon subdivision of the property and may also be required to accommodate bicycle facilities. A TIA may be required prior to development.



**Conclusion**

Multi family dwelling units (apartments) already exists near the Five Points Village Center, satisfying the need for diverse housing. Single family dwelling units exist to the west, south, and east of the subject site making the predominant land use in the area single family residential. Although the Semi-Urban and Residential Area 3 designations allow for three dwelling units per acre, the current A-1 zoning of the subject site offers the owner the opportunity to develop it with single family dwellings. The one-dwelling unit per acre density maintains the stability of the land use and zoning which is desirable as stated in Resolution 116-86. Neighbors living in close proximity to the subject site are concerned that a granting of R-2 zoning and subsequent development could negatively impact the community by worsening problems with traffic, noise, air pollution, pedestrian access, overcrowded schools, diminishing agricultural land, and the now tenuous farming tradition that is the fundamental nature of the South Valley (Attachment 3). Staff recommends denial of the request.

**Additional Comments, March 5, 2008:**

To date, no new materials have been submitted by the applicant.

**RECOMMENDATION:**

Denial of CZ-70023 based on the following Findings:

Mari Simbaña,  
Program Planner

**Findings:**

1. This is a request for a zone map amendment from A-1 to R-2 on Tracts 263A & 263B, MRGCD Map 41, located at 1058 Sunset Road SW, on the east side of Sunset Road approximately 750 feet south of Bridge Boulevard, and containing approximately 5.5 acres.
2. The site is located in the Semi Urban Area of the Albuquerque/Bernalillo County Comprehensive Plan and residential Area 3 of the Southwest Area Plan.
3. This request does not facilitate the realization of the Albuquerque/Bernalillo County Comprehensive Plan and residential Area 3 of the Southwest Area Plan because the proposed zone would permit a higher density and does not act as a transition between adjacent zones.
4. This request conflicts with Resolution 116-86 in that the applicant has failed to demonstrate that the existing zoning is inappropriate.
5. This request conflicts with Resolution 116-86 in that the desire for multi-family housing does not contribute to maintaining the stability of the land use and zoning.
6. This request is inconsistent with the health, safety, and general welfare of the residents of Bernalillo County.

**BERNALILLO COUNTY DEPARTMENT COMMENTS**

Zoning Administrator:

11/7/07

Proposed zone change from A-1 to R-2

The R-2 zone allows for a variety of residential uses, typically higher-density activities such as apartments, multiple single-family dwellings on a lot, and townhouses. If approved, all future development on the site will be required to conform to the applicable standards of Section 10 (R-2 zone) and other related sections of the ordinance (landscaping, parking, etc.).

Environmental Health:

10/23/07

1. Provide a water and sewer availability statement for the specific R-2 uses. Call 924-3987 at the ABCWUA.

2. Provide proof of sewer connection to the existing dwelling on lot with UPC#-101305603820730416. Verified water account [23038762] exists only no sewer and no septic tank/wastewater permit is on record.

3. Existing dwelling on lot with UPC#101305600822230717 has a water and sewer account#23031247.

Zoning Department Manager:

10/29/07

Based on the above comments there is no adverse comments at this time.  
no zoning violations

Building Department Manager:

10/26/07

Corrections listed below must be corrected for approval:

Demolition permits will be required as a condition of approval of this application.

Fire:

11/8/07

NO ADVERSE COMMENTS AT THIS TIME

Public Works:

DRAN:

11/7/07

No adverse comment to zone change request. This property is subject to Chapter 38 of the Bernalillo County Ordinance. Prior to any additional development of this property, a drainage submittal meeting the requirements of the Ordinance will be required.

DRE:

11/2/07

1. Sunset Road is designated as a Collector on the Long Range Roadway System map with a minimum right-of-way width of 68 feet. Additional right-of-way may be required upon subdivision of the property. Additional right-of-way may also be required to accommodate bicycle facilities.

2. Access to the site and roadways within the site shall conform to the County Street Standards.

3. A TIA may be required prior to development.

Parks & Recreation:

11/13/07

future platting actions will be subject to park and open space impact fees.

Sheriff's:

No comment received

## **COMMENTS FROM OTHER AGENCIES**

MRGCOG:

10/31/07

MPO staff have no comment on this particular project. For information purposes, Sunset Rd is classified an urban collector.

AMAFCA:

11/6/07

No comment.

City Public Works:

Transp. Planning:

No comment received

Transp. Development:

No comment received

Water Resources:

No comment received

City Planning:

No comment received

City Municipal Development:

COUNTY PLANNING COMMISSION  
MARCH 5, 2008  
CZ-70023

Transp. Division:

11/6/07

No comment received.

City Transit:

No comment received

ABCWUA Utility Development Section:

No comment received

City Environmental Health:

No comment received

City Open Space:

11/6/07

City Open Space has no adverse comments

NM Department of Transportation:

11/1/07

No comments. The development will have no direct or significant impact on the State's transportation system.

MRGCD

10/24/07

No Adverse Comment

Albuquerque Public School:

10/29/07

**MRGCD Map 41**, Tracts 263A and 263B, is located at 1054 Sunset Rd SW and 1058 Sunset Rd SW. The owner of the above mentioned property is requesting a zone change from A-1 to R-2. This development will consist of ~20 multi-family units. This will impact Armijo Elementary School, Ernie Pyle Middle School, and Rio Grande High School. Armijo Elementary School and Ernie Pyle Middle School will have excess capacity to absorb student growth from this development. Rio Grande High School will be nearing capacity as development continues in the area.

Loc No	School	2007-08 Projections	2006-07 Capacity	Space Available
215	Armijo	471	504	33
450	Ernie Pyle	692	1,024	332
540	Rio Grande	1,979	2,200	221

A new southwest high school is planned to open with a 9<sup>th</sup> grade academy in 2008. The remainder of the high school will open in 2009. The new southwest high school will relieve overcrowding at West Mesa High School and address future growth in the current Rio Grande attendance area.

To address overcrowding at schools, APS will explore various alternatives. A combination or all of the following options may be utilized to relieve overcrowded schools.

- Provide new capacity (long term solution)
  - Construct new schools or additions
  - Add portables
  - Use of non-classroom spaces for temporary classrooms
  - Lease facilities
  - Use other public facilities
- Improve facility efficiency (short term solution)
  - Schedule Changes
    - Double sessions
    - Multi-track year-round
  - Other
    - Float teachers (flex schedule)
- Shift students to Schools with Capacity (short term solution)
  - Boundary Adjustments / Busing
  - Grade reconfiguration
- Combination of above strategies

All planned additions to existing educational facilities are contingent upon taxpayer approval

**NEIGHBORHOOD ASSOCIATIONS:**

South Valley Coalition of Neighborhood Associations

South Valley Alliance

Southwest Alliance of Neighbors